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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of	
Access Charge Reform	CC Docket No. 96-262
Price Cap Performance Review for Local Exchange Carriers	CC Docket No. 94-1
Transport Rate Structure and Pricing	CC Docket No. 91-213
Usage of the Public Switched Network by Information Service and Internet Access Providers	CC Docket No. 96-263

COMMENTS OF PACIFIC TELESIS GROUP

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SUMMARY

Reform of the existing access charge regime is necessary and required by the changes wrought by the Telecommunications Act of 1996. The goals of reform should be to—

- Eliminate unnecessary regulatory requirements,
- Introduce competition efficiently, and
- Assure that incumbent LECs are able to recover all of their costs, including all interstate separations, universal service, and current costs.

The Commission cannot lawfully impose rate regulation on access services that would not permit incumbent LECs to recover all of these costs.

Lower access prices will not necessarily make consumers better off.

- Consumers are already paying far more than they should for intrastate and interstate long distance services.
- The interexchange carriers typically do not pass access charge reductions on to consumers, but use the windfall to increase their profit margins.
- Artificial reductions in access charges will not help consumers; more competition in the interLATA market will.

It is not necessary to reduce access charges by regulation to prevent incumbent LECs from having an advantage in the long distance market.

- A price squeeze is impossible under current market conditions.

California is already competitive.

- Numerous facilities based competitive LECs have entered the California market.
- Access customers are demand elastic and have already switched substantial business to competitive providers.

– Supply elasticity is also high; existing competitive capacity can already carry a substantial portion of all of Pacific Bell's switched access traffic.

To determine the presence of competition, the Commission should consider specific services and realistic geographic areas.

– DS1 and higher, for example, should immediately be deregulated.

A market-based approach to access reform is the only approach consistent with the Act.

– Pacific supports the USTA proposal for a market-based reform process

– Phase I relief—a simplified price structure—should be triggered by showing a presence of competition through a state approved interconnection agreement or statement of generally available terms and conditions

– Phase I relief should include contract carriage and deregulation of new services

– Phase II relief—removal of price cap regulation—should be triggered by a demonstration of substantial competition on a service and geographic basis.

The Commission should not adopt a prescriptive approach to access reform

– Interstate access revenues cannot be lowered based on forward-looking cost principles, without compensation elsewhere

– Pricing access services based on forward looking costs will preclude recovery of actual costs and thus constitute an unconstitutional taking

– There are tremendous practical problems making the detailed cost studies necessary to prescribe access prices

– Reinitializing price cap indices would eliminate incentives for increasing efficiency

Retaining the Carrier Common Line charge will not cause a double recovery of universal service support.

A downward exogenous cost adjustment should be made to reflect net universal service revenues to the carrier and an exogenous cost increase should be allowed if a carrier's contributions that cannot be directly passed through to consumers exceed revenues from the fund.

Any transition mechanism must provide for the recovery of all LEC current costs

- Recovery of capital depreciation reserve deficiency and any underdepreciation should be accomplished via a 5 year amortization

IXCs should be required to pay their fair share of LEC costs if they use unbundled elements as a substitute for access service

The existing access rate structure should be modified

- CCLC should be reduced or eliminated by increasing the SLC caps or by allowing the multi-line SLC to increase to its $6.00 cap
- Any residual CCLC should be bulk billed on a presubscribed line basis
- Local switching should include a flat-rated line and trunk port charge, a per message set up charge, and a per minute usage charge
- Dedicated facilities for transport should be flat-rated
- Portions of the TIC should be reallocated into other appropriate rate elements
- The remainder of the TIC should be bulk billed to access customers based on interstate revenues

The regulatory treatment of terminating access service should be the same for incumbent LECs and non-incumbent LECs

The exemption for enhanced service providers should be removed in the same order that reforms access charges

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I. INTRODUCTION

Pacific Telesis Group ("Pacific") hereby submits comments on the Commission's Notice of Proposed Rulemaking ("Notice") which seeks to reform the system of interstate access charges. We agree with the Commission's stated goals for this proceeding: "to ensure that access charge regulations are compatible with the 1996 Act";[1] "to eliminate … any unnecessary regulatory requirements";[2] and "to foster and accelerate the introduction of efficient competition."[3] The

[1] *Notice* ¶ 5.
[2] *Id.*
[3] *Notice* ¶ 1.

Commission recognizes, too, that reform of the access charge system to achieve these three goals may lead to revenues that are "much smaller" than would be required to "permit recovery of the interstate portion of embedded costs."[4]

As the Commission is well aware, the existing system of regulating access charges stems in large measure from a one-size-fits-all mentality. The current system imposes a series of government-mandated cost allocation and pricing rules on a state-wide, study area basis which can lead to distortions that adversely affect consumers, competition, and local exchange carriers ("LECs").[5] Some consumers may pay more than it actually costs to serve them; others pay less. Moreover, when LECs lower access charges to interexchange carriers ("IXCs") there is no certainty that end users will see lower prices; historically, the opposite has been true. In addition, competitors are encouraged to make inefficient investments to compete with LEC access services that are priced artificially high and don't invest in markets where LEC access prices are set artificially low. Finally, the rules often prevent LECs from efficiently responding to competition, and inhibit investment in new services.

The current access charge system is designed to recover all costs allocated to interstate access service, including all current costs. These current costs are allocated between the intrastate and interstate jurisdictions by arbitrary formulae that have one over-riding objective: to keep basic exchange rates low. Interstate costs are recovered by access charges. Access charges also recover some costs of the current Universal Service Fund, which is used to subsidize high cost carriers in rural areas. Likewise, interstate access charges also recover current and embedded LEC costs including investment being depreciated more slowly than economically justified to keep current rates low, as

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[4] *Notice* ¶ 248.

[5] *See Notice* ¶ 23.

well as the cost of plant that may be stranded due to competition.[6] Plainly, LEC shareowners will be subject to a new, fundamentally different and greatly increased risk if access reform creates a "regulatory squeeze" by moving prices to economic costs without providing for the recovery of all current costs outside of the access charge regime.

The Notice proposes to reform access charges by several possible means: changing the rate structure; reducing or eliminating regulation to allow market forces to work; and/or continuing to regulate prices but with a changed basis. The ideal thrust of each of these proposals would be, in the Commission's view, to "make [the] system of interstate access charges more economically rational and compatible with competitive local markets."[7] (As discussed in detail below, the likely reality of certain proposals would be quite the opposite.) To the extent that the Commission's access charge reform reflects a single-minded principle that prices must be lowered to recover no more than forward looking costs, the real current costs now included in access charges will be unrecovered and land solely on the shoulders of LEC shareowners. Under some of the options proposed, LECs would be precluded from recovering <u>any</u> costs other than forward looking costs in their access charges. Under other options, certain access charge elements might theoretically include a portion of these costs, but given competition, cost recovery would be impossible, leaving LEC shareholders "holding the bag."

Regardless of the nature of the reform, the costs currently recovered by access charges will not go away and may, in fact, increase. The Commission cannot unilaterally remove from a LEC's rates the real costs of providing telephone service that have been assigned to the interstate jurisdiction by the separations process. Interstate separations rules can only be changed by a Joint

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[6] In addition, LECs carry depreciation reserves on their books, which are not recovered by current access revenues.

[7] *Notice* ¶ 49.

Board proceeding under section 410(c). While the Commission promises timely reexamination of the jurisdictional separations rules,[8] the outcome of any such proceeding is uncertain and in the future. In the meanwhile, and as required by the Constitution, LECs must be given the opportunity to recover *all* costs assigned to the interstate jurisdiction.[9]

New universal service policies are subject to an ongoing proceeding.[10] To the extent that universal service costs are now recovered in access charges, some mechanism -- that is sustainable under competitive conditions -- must be developed to allow LECs to continue to recover the cost of universal service. Again, a Commission policy precluding recovery of such costs would be constitutionally infirm.

While the *Notice* recognizes that these important issues exist, we are concerned that it does not reflect a commitment by the Commission to allow LECs a means to recover these costs. Rather, the Commission appears to recognize "that implementation of access charge reform is expected to cause a significant reduction in incumbent LEC access revenues from current levels."[11] However, it is troubling that instead of tentatively concluding that a means must be found to allow LECs to recover their costs -- actual costs that have been legitimately incurred -- the Commission merely asks "whether" such cost recovery should be permitted.[12] Cost recovery not only should be permitted, it is required by the Act and the Constitution.

A true market-based approach represents the best, fairest, and most lawful means of reforming access charges. A market-based approach is fully consistent with the deregulatory, pro-

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[8] *Notice* ¶ 6.
[9] *See, e.g., FPC v. Hope Natural Gas Co.*, 320 U.S. 591, 603 (1944)
[10] *Federal-State Joint Board on Universal Service*, CC Docket No. 96-45.
[11] *Notice* ¶ 18.
[12] *Id.*

competitive goals of the Act. Properly implemented, it can move the industry towards less regulation and still leave incumbent LECs with the ability to recover current costs. However, certain proposals in the *Notice* would effectively make regulation of unbundled elements the price for deregulation of access. In particular, the proposed triggers for Phase I relief include: unbundled elements based on the FCC's TELRIC plus a reasonable allocation of common cost; transport and termination charges based on LEC's incremental costs found acceptable by the FCC; and wholesale prices based on retail prices minus reasonably avoidable costs also found acceptable by the FCC. These triggers effectively require regulated rates for the unbundled elements in order to receive limited deregulation of some access charges. Moreover, these triggers are both redundant and legally suspect. Redundant, because they repeat requirements already adopted by the Commission in the *Local Competition Order*.[13] Legally suspect, because they appear to require an FCC-based pricing standard found legally infirm and stayed by the 8th Circuit Court of Appeals.

As we show below, a market-based approach with appropriate triggers should be the outcome of this proceeding. In contrast, the Notice's alternative proposal of a prescriptive approach is fraught with legal and practical infirmities. Such an approach moves in the opposite direction from the Act's goal of reducing and eventually eliminating regulation. Instead of promoting competition, it is more likely to remove incentives for market entry by facilities-based competing access providers by artificially driving LEC prices below competitive levels. And, by forcing LECs to price at TELRIC, the prescriptive approach prevents full cost recovery, violating the Fifth Amendment.

[13] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-98, *First Report and Order*, 11 FCC Rcd 15499 (1996), *Order on Reconsideration*, CC Docket No. 96-98, 11 FCC Rcd 13042 (1996), *petition for review pending and partial stay granted, sub nom. Iowa Utilities Board et. al v. FCC*, No. 96-3321 and consolidated cases (8th Cir., Oct. 15, 1996), *partial stay lifted in part*, *Iowa Utilities Board et. al v. FCC*, No. 96-3321 and consolidated cases (8th Cir. Nov. 1, 1996) ("*Local Competition Order*").

We recommend that the Commission adopt a market-based approach as detailed in the Comments of USTA. Phase I relief would be triggered by showing a presence of competition through a state approved interconnection agreement or statement of generally available terms and conditions. Phase I relief would include pricing flexibility, contract carriage and deregulation of new services. Phase II relief—removal of price cap regulation—would be triggered by a demonstration of substantial competition on a service and geographic basis.

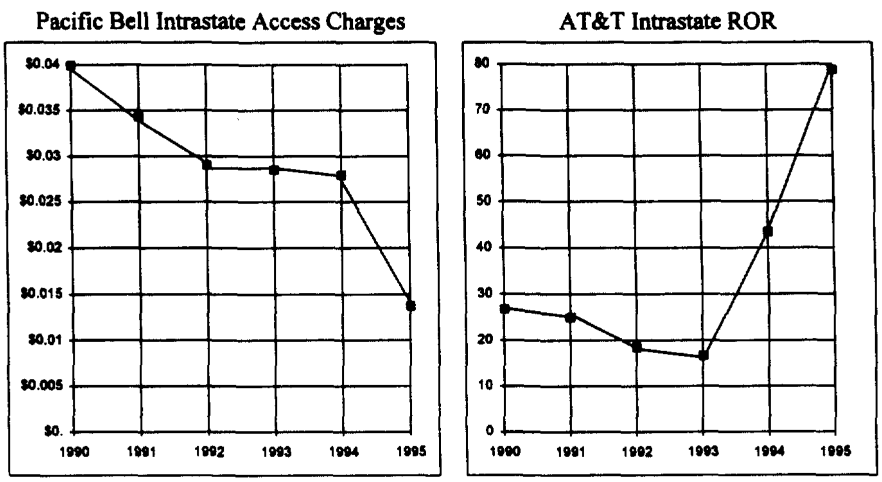
We also recommend reform of the current access charge price structure. The Carrier Common Line Charge ("CCLC") should be reduced or eliminated by increasing the Subscriber Line Charge ("SLC") caps or in the alternative by allowing the multi-line SLC to reach its $6.00 cap. Any residual CCLC should be bulk billed based on presubscribed lines. Local switching and tandem switching should include flat-rated port charges, a per message set up charge, and a per minute usage charge. Charges for dedicated facilities for transport should be flat-rated. Portions of the TIC should be reallocated to other appropriate rate elements. The remainder of the TIC should be bulk billed to access customers based on interstate revenues. Finally, when the order in this proceeding is adopted, it should remove the exemption for enhanced service providers.

II. EVEN WIDESCALE DECREASES IN ACCESS PRICES ARE UNLIKELY TO RESULT IN LOWER PRICES TO THE CONSUMER; REDUCTIONS IN ACCESS PRICES SHOULD NOT OCCUR IN ANY STATE UNTIL BOC INTERLATA ENTRY HAS BEEN APPROVED (¶ 41)

The Commission's *Notice* implies that access prices must fall to more economically efficient rates. Presumably the Commission's goal is to lower prices to consumers. However, there is no evidence that lowering access prices makes consumers better off; that is, that IXCs pass through access charge price reductions to the consumer. With respect to intrastate interLATA services, the

IXCs' prices in California have remained essentially stable even though intrastate access charges have been reduced by 63 percent over the past five years (with a 50 percent reduction in 1995 alone) to 1.35 cents per minute on each end. As a result, AT&T's net income in California has more than tripled from $89 million in 1993 to $324 million in 1995. On a rate-of-return basis, the picture is even more stark: from 1990 to 1993, AT&T's rate of return in California ranged from 17 to 26 percent. In 1994, AT&T enjoyed a 43 percent rate of return, and in 1995, following the substantial reduction in Pacific Bell's switched access prices, its rate of return climbed to an astronomical 79 percent. Pacific Bell's 1995 intrastate rate of return, in contrast, was 8 percent. Finally, the "Big 3" IXCs' price-cost margin in California has increased from less than 20 percent just after divestiture to almost 70 percent today. A similar situation prevails in Nevada. Nevada Bell has reduced access charges by 50 percent since 1989, but IXC rates have not reflected this decrease.

AT&T Intrastate ROR in California Grew Dramatically as Intrastate Access Charges Declined



Source: California PUC General Order 65A filings

This California experience is a model for how the IXC's behave when access charges fall. Consumers are not made better off; but IXC's rate of return climbs dramatically.

IXC rates of return are not the only thing climbing. Since 1990, the 3 largest IXCs have orchestrated regular price increases, even though their costs of access have fallen. As USTA notes in their comments, access charges have been reduced by about $9B over the past 6 years, while the 3 largest IXCs have all raised their rates, simultaneously six times in the last 5 years. Put simply, IXCs have used lower access fees to fatten their margins, and they have done so with no competitive checks in place to prevent such behavior.

The IXCs have argued that the ever-widening gap between decreasing access charges and increasing long distance prices does not present an accurate picture of the true impact on consumers. This contention is belied by AT&T's own statements, as reported in the New York Times:

> The [5.9 percent] increases ... will be felt by a large majority of AT&T's 85 million residential and small business customers, according to Mark Siegl, a spokesman for the company.
>
> The only people not affected are the roughly one million customers who enrolled in AT&T's two-month old One Price calling plan, which offers a uniform price of 15 cents a minute for all long-distance calls within the United States.[14]

Thus, AT&T itself acknowledges that the latest increase will affect all but 1.2 percent of its residential and small business customers, and there is no reason to believe that the impact of past price increases was any less pervasive. Indeed, even the 15 cent per minute price offered by AT&T is far above its marginal costs of providing service. On average, AT&T pays approximately 3 cents per minute for total access charges in California and incurs 1 cent per minute in network costs, leaving

[14] "Rates Increased 5.9% by AT&T, Its Biggest Rise in Nearly 3 Years," *New York Times*, page D1 (November 28, 1996).

roughly 11 cents per minute in profit margin. In Nevada, total access charges are approximately 6 cents per minute, leaving AT&T a profit margin of about 8 cents per minute (better than 50 percent).

The foregoing discussion demonstrates that consumers are paying far more than they should for intrastate and interstate long distance services. The level of interstate access rates is not the reason. Only the RBOCs have the resources and brand recognition to compete with the incumbent IXCs' oligopoly. Pacific and the other RBOCs will enter the interLATA market with zero market share and will have substantial incentives to offer lower prices to attract customers. Consumers will be made better off not by reducing access charges to some artificially low level, but by allowing true competition in all levels of the retail marketplace, including the interLATA market.

Thus, there is one simple rule that must accompany any reduction in access fees paid by IXCs. Before access rates are reduced, the RBOCs must be permitted to enter the interLATA market. The IXCs have already presented evidence why this approach is necessary -- without RBOC entry IXCs will simply pocket the reduced costs and increases prices to consumers with impunity. In addition, it is an approach that can easily be implemented on a state-by-state basis as the RBOC receives authority to offer interLATA service. At the same time, interstate access rates for that state can be reduced consistent with the rules the FCC adopts in this proceeding. In this manner, consumers can be assured that lower rates for IXCs will actually lead to lower rates for end users.

III. ACCESS PRICES BASED ON FORWARD LOOKING COSTS ARE NOT A NECESSARY PRECONDITION TO A COMPETITIVE LONG DISTANCE MARKET; MOREOVER, NO REASON EXISTS WHY ACCESS CHARGES SHOULD NOT APPLY TO UNBUNDLED ELEMENTS (¶¶ 47, 148)

IXCs are trying to cloud the issues surrounding access charges by raising a "problem" that has already been solved. IXCs argue that incumbent LECs and their long distance affiliates will have an artificial advantage in the long distance market if access rates are not brought down to forward looking economic cost levels, and that therefore retail long distance prices will be artificially inflated.[15] For essentially the same reason, IXCs argue that access charges should not apply to unbundled elements. We disagree on both accounts. As Dr. Richard Emmerson's declaration attached to these comments explains in great detail, no price squeeze can occur with the market conditions and rules already in place.

The LEC's long distance affiliates will be subject to the same access prices as any other long distance competitor. Under imputation rules at both the state level and in section 272 (e)(3) of the Act, the long distance affiliate must either impute the cost of access rates into its pricing of the retail service or buy access service from the BOC on the same terms and conditions as apply to IXCs. In order to engage in a price squeeze, the LEC's affiliate would have to sell long distance below cost, thus losing money with the hope that it can drive the competition from the long distance market. Given the strength of the competitors in the long distance market, and the fact that we will start with zero market share, such an outcome is extremely improbable. Thus, existing rules permit customers to benefit from a vertically integrated firm, while ensuring the firm's competitors are not squeezed.

In addition, for a LEC to engage in a successful price squeeze, it must acquire significant market power. "In order to acquire market power over interLATA services, Pacific Bell and other incumbents would have to engage in a financially draining price squeeze and possess the staying power to outlast AT&T, MCI (presumably merged with British Telecom) and Sprint, an unlikely possibility."[16] As Dr. Emmerson goes on to explain,

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[15] *Notice*, ¶¶ 47, 148.
[16] Emmerson, p. 20.

> In any event, bringing switched access charges closer to economic cost would not guard against anticompetitive price squeezes. As the NPRM seems to realize, an anticompetitive price squeeze arises as the result of the relationship between intermediate-good prices and retail prices. The occurrence of a squeeze is not determine by the price of the intermediate good itself.[17]

The IXCs are simply trying to constrain our prices on the intermediate good, while keeping their retail prices unfettered.

For the same reason, it is unnecessary to endorse another IXC position, which is that access charges should not apply to unbundled elements. When unbundled elements are "combined" they mimic the same functions, features and access to the local network that is provided by our access services today. IXCs have asked that access be priced no higher than economic costs, which is lower than the pricing standard applicable to unbundled elements, or, if access charges exceed the prices applicable to unbundled elements, they not apply when unbundled elements are used to originate or terminate an interstate toll call. In either case, IXCs would see lower rates, as compared to today's access charges, for the toll traffic they provide to end users.

However, RBOC affiliates offering interLATA services will see the same rates as IXCs, whether they purchase and combine unbundled elements or buy access services directly from their BOC affiliate. In either case, they will bear the same costs as their IXC competitors for access to the local network, and existing rules again prevent a price squeeze. Thus, as was true with the access charge discussion above, applying access charges to unbundled elements will not lead to a price squeeze favoring BOC interLATA affiliates.

Furthermore, it is important that IXCs and BOC affiliates do, in fact, bear like charges for interstate toll access, both as between themselves and as between services that offer like functions

[17] *Id.* p. 21.

and features. The first proposition is founded in competitive fairness -- there is no reason why IXCs should gain any advantage in access to the local network as compared with BOC interLATA affiliates. The second, however, goes further to make clear that the costs of such access, whether caused by IXC or BOC affiliates accessing the local network, cannot be avoided by these cost causers. Again, the interstate cost of access to the local network is based on a separations process which assigns to the interstate jurisdiction the costs to be borne by interstate toll calling. However, when access charges are reformed, the Commission cannot allow IXCs or their competitors to avoid the recovery mechanism. Thus, when the Commission adopts a new funding mechanism for the current CCLC, TIC, recovery of the depreciation reserve deficiency, and, if applicable, the difference between embedded and forward looking costs of access, such as a bulk billing process, the new mechanism must apply equally to unbundled elements. Access services and unbundled elements offer like access to the local network, and they, therefore, must be priced at like levels to avoid unlawful discrimination.

IV. SUBSTANTIAL COMPETITION ALREADY EXISTS IN CALIFORNIA; THE PRESENCE OF COMPETITIVE ALTERNATIVES SHOULD BE THE PREDICATE UPON WHICH MARKET-BASED TRIGGERS ARE BASED (¶¶ 140-155)

"[R]egulation should substitute for market forces only after a clear recognition that market forces are insufficient to produce efficient results and adequately constrain market power."[18] The FCC needs to recognize that competition in California is already very robust both in the access market and the local market. As such we may be in a very different situation than other LECs whose markets have not been opened. Schmalensee & Taylor recognize that

> It is important to note that rules for reducing regulatory constraints be based on actual state experience as opposed to artificial criteria established by the

[18] Schmalensee & Taylor, attached to USTA Comments, p. 24.

> Commission that may not be approved in the states. Basing rules on the latter possibility fail to take into account real market dynamics and penalize ILECs by maintaining unneeded regulatory constraints."[19]

Competition in the access market has recently expanded from the dense urban areas to the second-tier markets. In dense metropolitan areas such as San Francisco and Los Angeles, there are 6 different competitive fiber based networks in each area competing with Pacific Bell for the most attractive business customers. In addition, Competitive Access Providers ("CAPs") have also leased space on utility rights-of-way to further expand their networks. There has been significant expansion of competing fiber networks in the past year. More than 2/3 of wire centers with collocation cages are outside of the 4 major metropolitan areas in California.

Statewide, 206 collocation cages have been built in 79 wire centers by 14 different CAPs. These offices contain the vast majority of Pacific Bell's traffic, indeed, almost 90% of Pacific Bell's switched and special access traffic. Last year the number of cross-connects terminating in those cages tripled to 20,700 DS1 equivalents. These connections have the capacity to carry about 75% of Pacific Bell's switched access traffic. With a large number of competitors in each area, it is not surprising that there are 6 to 9 collocation cages in each of our most attractive serving wire centers. The next page shows a map of California detailing the depth and breadth of competition in the state.

Access competition is intense in specific geographic markets. Over 90% of Pacific Bell's DS1 & DS3 traffic exists in those offices with collocation, cross-connects, and competitive fiber networks. In San Francisco and Los Angeles our market share for special access Hicap has plummeted to 54%.[20] On our competitors' special access Hicap facilities, it is estimated that over 78% of the

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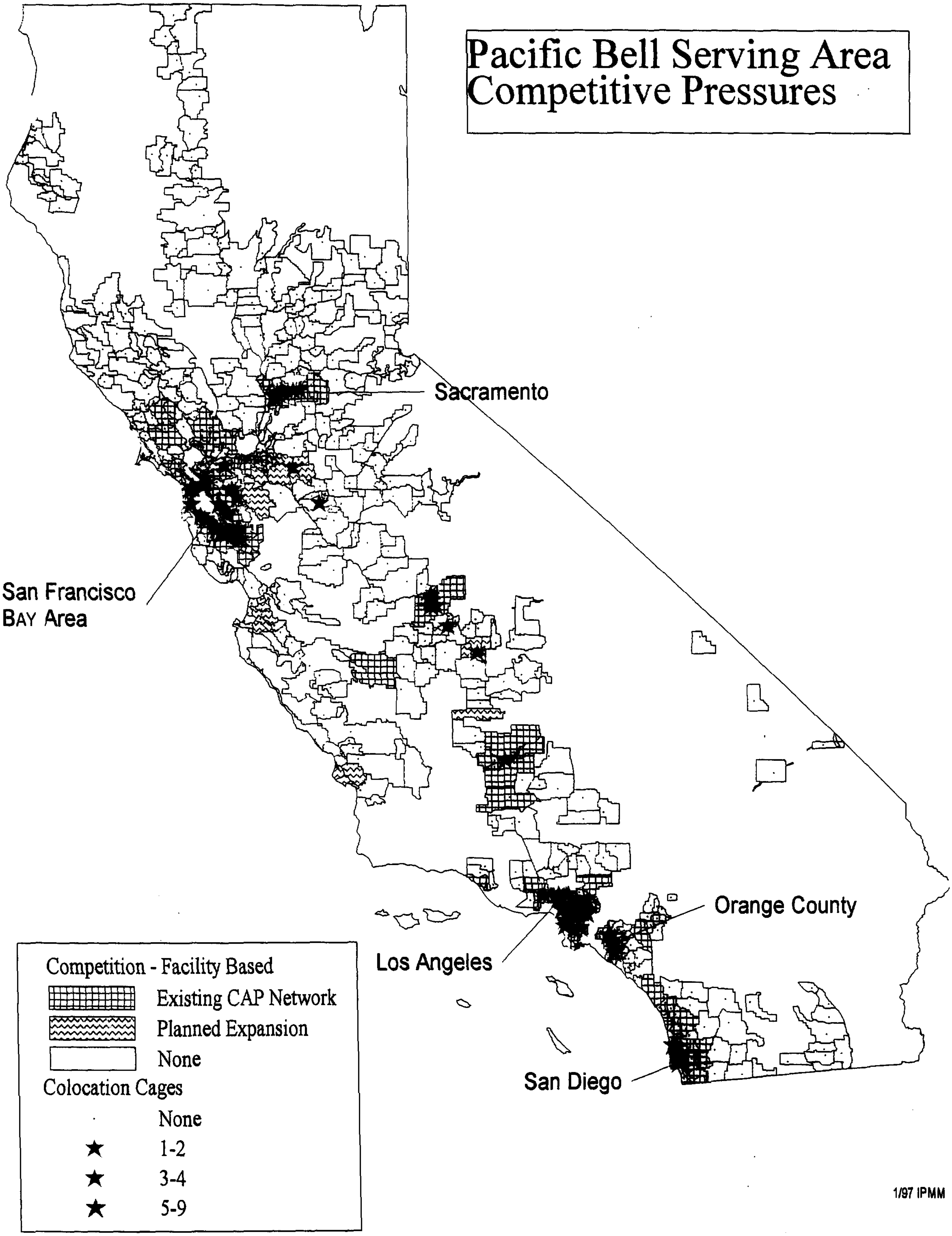
[19] *Id.* p. 34.
[20] Quality Strategies 3Q96 Hicap track study.


Pacific Bell Serving Area
Competitive Pressures
Sacramento
San Francisco
BAY Area
Orange County
Los Angeles
San Diego
Competition - Facility Based
Existing CAP Network
Planned Expansion
None
Colocation Cages
None
1-2
3-4
5-9
1/97 IPMM

traffic on DS1s and over 52% of DS3 traffic is switched access traffic.[21] This is not surprising since the nearly 1,500 IXC California Point of Presence switches can switch all types of traffic. In many cases DS1s and DS3s provide attractive alternatives to switched access.[22]

The local market provides another snapshot of the burgeoning California telecommunications market. Sixty-nine Competitive Local Exchange Carriers ("CLCs") have been approved to provide local service in California. Twenty-two additional companies are awaiting approval. Of these 91 competitive local exchange companies, 48 are facility based. These companies have opened 548 NXX codes which equate to 5.5 million new telephone numbers. Indeed, the demand is so high that the CPUC is now rationing NXX codes in many areas.[23] These codes cover over 90% of Pacific Bell's total business and residential lines.

There are 35 new competitive local switches in California with numerous additional installations planned for 1997. As noted above, a vast majority of the long distance carriers' 1,500 switches can readily be upgraded to carry local traffic via software modifications. Seven different CLC's installed 17,166 local interconnection trunks in 1996. One hundred and one million minutes of use were terminated by Pacific Bell on CLC networks just during the month of December; billions of minutes will be exchanged in 1997. "With its rich market and salutary regulatory climate, California has become the primary target of AT&T's expansion plans."[24]

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[21] Quality Strategies, 3Q96 Switched MOU study.

[22] See discussion at Section VI E, seeking forbearance from regulation of these competitive services.

[23] *Order Instituting Rulemaking on the Commission's Own Motion into Competition for Local Exchange Service*, R. 95-04-043, D. 96-09-087, September 1996.

[24] *AT&T is Venturing Cautiously into Local Telephone Business*, N.Y. Times, January 28, 1997 at D1.

These conditions belie any notion of "competition in its infancy" insofar as concerns California. More importantly, they show a strong presence of supply alternatives to our services. Switched access services are being provided by CLCs (formerly "CAPs") today through their extensive fiber ring networks and the collocation cages they have placed throughout California. In many cases, major IXCs have moved traffic off our local transport network and onto the networks of CLCs to enjoy reduced access charges for the origination and termination of toll traffic. In addition, these same competitors provide their own loops directly to end users, and can capture not only the end user's traffic but all access charges associated with the loops they provide.

There is only one predicate necessary for these competitors to offer substantial alternatives to our services -- the ability to interconnect with our network. Once that is in place through a state commission approved interconnection agreement, a viable alternative to our access service exists. An approved interconnection agreement should become the 'trigger" for adoption of a market-based approach to access pricing. Nothing further is or should be required. Moreover, the substantial competition we face in California is compelling evidence that market forces are already serving as a viable check on our access prices.

V. THE COMPETITIVE FACTORS THE COMMISSION PROPOSES TO USE TO DETERMINE THE PRESENCE OF SUBSTANTIAL COMPETITION ARE NOT ECONOMICALLY RATIONAL. (¶¶ 156-160, 203-210)

The Commission addresses proposed competitive factors in two different parts of the Notice. In its initial discussion, it seeks comment generally on demand responsiveness, supply responsiveness, market share, pricing of services under price caps, and other factors to be considered in